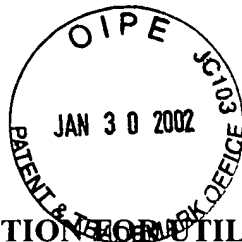


#3



PATENT
Docket No. 441742001320

DECLARATION OF INVENTOR FOR UTILITY PATENT APPLICATION

AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: DISTAL ANASTOMOSIS SYSTEM, the specification of which is attached hereto unless the following box is checked:

☒ was filed on November 21, 2001 as United States Application Serial No. 09/991,469.

I HEREBY STATE THAT I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge the duty to disclose information which is material to the patentability as defined in 37 C.F.R. § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed:

| Application No. | Country | Date of Filing (day/month/year) | Priority Claimed? |
|-----------------|---------|------------------------------------|--|
| | | | <input type="checkbox"/> Yes <input type="checkbox"/> No |

I hereby claim benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

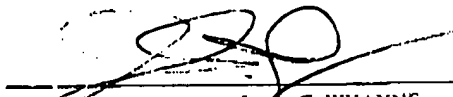
| Application Serial No. | Filing Date |
|------------------------|-------------|
| | |

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

| Application Serial No. | Filing Date | Status |
|------------------------|--------------|--|
| 09/899,346 | July 5, 2001 | <input type="checkbox"/> Patented <input checked="" type="checkbox"/> Pending <input type="checkbox"/> Abandoned |

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

1/27/02
Date


Name: James G. WHAYNE
Residence: 1200 Pinehurst Drive, Chapel Hill, North Carolina 27517
Citizenship: United States of America
Post Office Address: 1200 Pinehurst Drive, Chapel Hill, North Carolina 27517

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

James G. WHAYNE

Serial No.: 09/991,469

Filing Date: November 21, 2001

For: DISTAL ANASTOMOSIS SYSTEM



Examiner: To Be Assigned

Group Art Unit: 3738

**PROSECUTION BY ASSIGNEE AND POWER OF ATTORNEY
UNDER 37 C.F.R. § 3.71**

Box Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Converge Medical, Inc., the assignee of the entire right, title and interest in this patent application, under 37 C.F.R. § 3.71 hereby appoints:

| | |
|---------------------------------------|---|
| Lisa A. Amii (Reg No. 48,199) | Randolph Ted Apple (Reg No. 36,429) |
| Mehran Arjomand (Reg No. 48,231) | Laurie A. Axford (Reg No. 35,053) |
| Sanjay S. Bagade (Reg No. 42,280) | Erwin J. Basinski (Reg No. 34,773) |
| Shantanu Basu (Reg No. 43,318) | Richard R. Batt (Reg No. 43,485) |
| Vincent J. Belusko (Reg No. 30,820) | Jonathan Bockman (Reg No. 45,640) |
| Kimberly A. Bolin (Reg No. 44,546) | Barry E. Bretschneider (Reg No. 28,055) |
| Tyler S. Brown (Reg No. 36,465) | Nicholas Buffinger (Reg No. 39,124) |
| A. Randall Camacho (Reg No. 46,595) | Mark R. Carter (Reg No. 39,131) |
| Robert K. Cerpa (Reg No. 39,933) | Peng Chen (Reg No. 43,543) |
| Alex Chartove (Reg No. 31,942) | Thomas Chuang (Reg No. 44,616) |
| Thomas E. Ciotti (Reg No. 21,013) | Cara M. Coburn (Reg No. 46,631) |
| Matthew M. D'Amore (Reg No. 42,457) | Raj S. Davé (Reg No. 42,465) |
| Peter Davis (Reg No. 36,119) | David Devernore (Reg No. P-50,128) |
| Karen B. Dow (Reg No. 29,684) | Stephen C. Durant (Reg No. 31,506) |
| Carolyn A. Favorito (Reg No. 39,183) | David L. Fehrman (Reg No. 28,600) |
| Hector Gallegos (Reg No. 40,614) | Thomas George (Reg No. 45,740) |
| Deborah S. Gladstein (Reg No. 43,636) | Debra J. Glaister (Reg No. 33,888) |
| Kenneth R. Glick (Reg No. 28,612) | Bruce D. Grant (Reg No. 47,608) |
| Johnney U. Han (Reg No. 45,565) | Douglas G. Hodder (Reg No. 41,840) |
| Alan S. Hodes (Reg No. 38,185) | Charles D. Holland (Reg No. 35,196) |
| Kelvan P. Howard (Reg No. P48,999) | Peter Hsieh (Reg No. 44,780) |
| Jill A. Jacobson (Reg No. 40,030) | Wayne Jaeschke, Jr. (Reg No. 38,503) |
| Madeline I. Johnston (Reg No. 36,174) | Parisa Jorjani (Reg No. 46,813) |

Ararat Kapouytian (Reg No. 40,044)
Cameron A. King (Reg No. 41,897)
Kawai Lau (Reg No. 44,461)
Rimas T. Lukas (Reg No. 46,451)
Gladys H. Monroy (Reg No. 32,430)
Kate H. Murashige (Reg No. 29,959)
Martin M. Noonan (Reg No. 44,264)
Phillip Reilly (Reg No. 41,415)
Debra A. Shetka (Reg No. 33,309)
Kevin R. Spivak (Reg No. 43,148)
Thomas L. Treffert (Reg No. P48,279)
Michael R. Ward (Reg No. 38,651)
Todd W. Wight (Reg No. 45,218)
Frank Wu (Reg No. 41,386)
Peter J. Yim (Reg No. 44,417)
Karen R. Zachow (Reg No. 46,332)

Richard C. Kim (Reg No. 40,046)
Lawrence B. Kong (Reg No. P49,043)
Glenn Kubota (Reg No. 44,197)
Michael J. Mauriel (Reg No. 44,226)
Philip A. Morin (Reg No. P-45,926)
Mabel Ng (Reg No. P48,922)
Catherine M. Polizzi (Reg No. 40,130)
Robert E. Scheid (Reg. No. 42,126)
Terri Shieh-Newton (Reg No. 47,081)
Stanley H. Thompson (Reg No. 45,160)
Brenda J. Wallach (Reg No. 45,193)
E. Thomas Wheelock (Reg No. 28,825)
Eric Witt (Reg No. 44,408)
David T. Yang (Reg No. 44,415)
George C. Yu (Reg No. 44,418)

all of Morrison & Foerster LLP, 755 Page Mill Road, Palo Alto, California 94304-1018, telephone (650) 813-5600, to prosecute this application and transact all matters in the United States Patent and Trademark Office connected therewith, said appointment to be to the exclusion of the inventors and their attorneys in accordance with the provisions of 37 C.F.R. § 3.71 provided that if any one of said attorneys or agents ceases being affiliated with the law firm of Morrison & Foerster as partner, employee or of counsel, such attorney's or agent's appointment as attorney or agent and all powers derived therefrom shall terminate on the date such attorney or agent ceases being so affiliated.

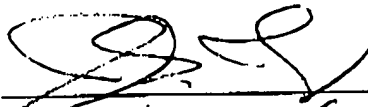
Please direct all written communications relative to this application to:

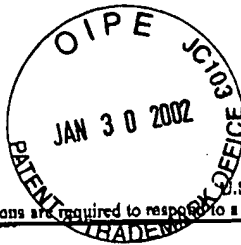
Johney U. Han
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, California 94304-1018

Please direct all telephone communications to Johney U. Han at (650) 813-5786.

Converge Medical, Inc.
a Delaware corporation

Dated: 1/27, 2002


Name: JAMES G. WHAYNE
Title: DIRECTOR RESEARCH
Address: 7026 KOLL CENTER PKWY, SUITE 2,
PLEASANTON, CA 94566
2
Serial No. 09/991,469
Docket No. 441742001320



PTO/SB/96 (08-00)

Approved for us through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: James G. WHAYNE

Application No./Patent No.: 09/991,469

Filed/Issue Date: November 21, 2001

Entitled: DISTAL ANASTOMOSIS SYSTEM

Converge Medical, Inc.,

corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.
The extent (by, percentage) of its ownership interest is _____ %

In the patent application/patent identified above by virtue of either:

- A. [X] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

- B. [] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

[] Additional documents in the chain of title are listed on a supplemental sheet.

- [] Copies of assignments or other documents in the chain of title are attached.

(NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Date

Name

Signature

Title

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC: 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Attorney Docket No.: 441742001320

ASSIGNMENT SOLE

COPY

THIS ASSIGNMENT, by James G. WHAYNE (hereinafter referred to as the assignor), residing at 1200 Pinehurst Drive, Chapel Hill, North Carolina 27517, witnesseth:

WHEREAS, said assignor has invented certain new and useful improvements in DISTAL ANASTOMOSIS SYSTEM, set forth in an application for Letters Patent of the United States, having an oath or declaration executed on even date herewith; bearing Serial No. 09/991,469 and filed on November 21, 2001; and

WHEREAS, Converge Medical, Inc., a corporation duly organized under and pursuant to the laws of Delaware and having its principal place of business at 7026 Koll Center Parkway, Suite 230, Pleasanton, California 94566 (hereinafter referred to as the assignee) is desirous of acquiring the entire right, title and interest in and to said inventions and said application for Letters Patent of the United States, and in and to any Letters Patent or Patents, United States or foreign, to be obtained therefor and thereon:

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and sufficient consideration, the receipt of which is hereby acknowledged, said assignor has sold, assigned, transferred and set over, and by these presents does sell, assign, transfer and set over, unto said assignee, its successors, legal representatives and assigns, the entire right, title and interest in and to the above-mentioned inventions, application for Letters Patent, and any and all Letters Patent or Patents in the United States of America and all foreign countries which may be granted therefor and thereon, and in and to any and all divisions, continuations and continuations-in-part of said application, or reissues or extensions of said Letters Patent or Patents, and all rights under the International Convention for the Protection of Industrial Property, the same to be held and enjoyed by said assignee, for its own use and the use of its successors, legal representatives and assigns, to the full end of the term or terms for which Letters Patent or Patents may be granted, as fully and entirely as the same would have been held and enjoyed by the assignor, had this sale and assignment not been made.

AND for the same consideration, said assignor hereby covenants and agrees to and with said assignee its successors, legal representatives and assigns, that, at the time of execution and delivery of these presents, said assignor is the sole and lawful owner of the entire right, title and interest in and to said inventions and the application for Letters Patent above-mentioned, and that the same are unencumbered and that said assignor has good and full right and lawful authority to sell and convey the same in the manner herein set forth.

AND for the same consideration, said assignor hereby covenants and agrees to and with said assignee, its successors, legal representatives and assigns, that said assignor will, whenever counsel of said assignee, or the counsel of its successor, legal representatives and assigns, shall advise that any proceeding in connection with said inventions, or said application for Letters Patent, or any proceeding in connection with Letters Patent for said inventions in any country, including interference proceedings, is lawful and desirable, or that any division, continuation or continuation-in-part of any application for Letters Patent or any reissue or extension of any Letters Patent, to be obtained thereon, is lawful and desirable, sign all papers and documents, take all lawful oaths, and do all acts necessary or required to be done for the procurement, maintenance, enforcement and defense of Letters Patent for said inventions, without charge to said assignee, its successors, legal representatives and assigns, but at the cost and expense of said assignee, its successors, legal representatives and assigns.

AND said assignor hereby requests the Commissioner of Patents to issue said Letters Patent of the United States to said assignee as the assignee of said inventions and the Letters Patent to be issued thereon for the sole use of said assignee, its successors, legal representatives and assigns.

Date

1/27/02

James G. WHAYNE